

AUG 07 2019

PETER A. MOORE, JR., CLERK  
US DISTRICT COURT, EDNC  
BY \_\_\_\_\_ DEP CLK

Plaintiff,

COMPLAINT

Case No. 5:19-CT-3234

vs.

N.C.D.P.S. "Facilities"  
(Central Prison, Pasquotank,  
Lanesboro, Mountain View,  
Avery Mitchell Corr. Inst's

Defendant(s).

Jurisdiction is proper in this court according to:

✓ 42 U.S.C. § 1983

42 U.S.C. §1985

Other (Please specify) \_\_\_\_\_

1. Name of Plaintiff: Steve M. Tolbert Opus #0409607  
Address: Warren Correctional Institution  
Post Office Box 728  
Norlina, N.C. 27563

2. Name of Defendant: North Carolina Dept. of Public Safety  
Address: Prison's / Medical Services Division  
831 W. Morgan St.  
Raleigh, N.C. 27603-1659

Is employed as Medical Services at N.C. D.D.P.S.  
(Position/Title) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred? YES ☒ NO ☐ if "YES" briefly explain:

The defendants were contracted by the state to assess and treat injuries including performing surgery, rehabing, and periodic check ups.

3. Name of Defendant: N.C. D.P.S. Prison's Medical Services  
Address: 631 W. Morgan St.  
Raleigh, N.C. 27603-1659

Is employed as Medical Services at N.C. D.P.S.  
(Position/Title) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred? YES ☐ NO ☐ if "YES" briefly explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Name of Defendant: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is employed as \_\_\_\_\_ at \_\_\_\_\_  
(Position/Title) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred? YES ☐ NO ☐ if "YES" briefly explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Use additional sheets if necessary.)

### C. NATURE OF CASE

Why are you bringing this case to court? Please explain the circumstances that led to the problem.

I was diagnosed with an foot problem called  
on drossel bunyon, and was seen by medical  
staff only after the issue had progressed to  
point where I could not walk. And still went months  
until any surgery or corrective procedure was done.  
At the end I was then given and surgery in which the  
implant was incorrectly inserted thus causing greater  
injury and pain

#### D. CAUSE OF ACTION

I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

- a. (1) Count 1: 8th Amendment Deliberate Indifference  
(2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing any legal authority. Use additional sheets if necessary.)

The defendant would not treat my injury instead giving me Tylenol for pain for 5 years. Finally when I wasn't able to walk I was diagnosed with dorsal bunions.

- b. (1) Count 2: Corrected from 8th Amendment  
(2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing any legal authority. Use additional sheets if necessary.)

I was given an surgery to correct the issue and it was placed incorrectly thus causing further pain to the foot and now the other foot is becoming inflamed. I'm scared to get another surgery by these surgeons.

E. INJURY

How have you been injured by the actions of the defendant(s)?

I was not treated for 5 years as I complained via sick calls of pain, and only given tylenol. This went on until it got so bad I couldn't walk. At this point I was finally diagnosed with Dorsal bunions. I was given corrective surgery after 5 years. But it was done wrong causing further injury. I fear receiving treatment

F. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action? YES \_\_\_\_\_ NO ✓

If your answer is "YES", describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

1. Parties to previous lawsuits:

Plaintiff(s): \_\_\_\_\_

Defendants(s): \_\_\_\_\_

2. Name of court and case or docket number:

\_\_\_\_\_

3. Disposition (for example, was the case dismissed? Was it appealed? Is it still pending?)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Issues raised:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. When did you file the lawsuit? \_\_\_\_\_  
Date: Month/Year

6. When was it (will it be) decided? \_\_\_\_\_

Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part D? YES ✓ NO \_\_\_\_\_

If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

\_\_\_\_\_

G. REQUEST FOR RELIEF

I believe I am entitled to the following relief:

I am seeking 7 million dollars in punitive damages due to the blatant disregard for the underlying surgery. Compensatory Damages for the surgery, and competent surgeon's to do corrective surgery for the improper procedure, and my opposite foot treated by the same surgeon.

JURY TRIAL REQUESTED

YES ☒ NO ☐

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at Warren Corr. Inst. on July 25, 2019.

(Location)

(Date)

Steve M Tolbert

Signature

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed/ delivered to the following individuals at the addresses listed:

North Carolina Department of Public Safety  
Prison's Division  
881 West Morgan Street  
Raleigh, North Carolina, 27603-1659

This the 26 day of July, 2019.

Steve M Tolbert  
Signature

Steve M. Tolbert  
(Print Name)